

RETURN DATE: July 5, 2016 : SUPERIOR COURT  
Timothy J. Curt, Dona M. Bissonnette, : JUDICIAL DISTRICT OF  
1208 Smith Ridge Road LLC : STAMFORD-NORWALK  
  
Plaintiffs  
v. : AT STAMFORD  
Grace Farms Foundation, Inc., Grace : MAY 25, 2016  
Property Holdings, LLC, Sharon Prince  
  
Defendants

**COMPLAINT**

**COUNT I: Violation of the CT Inland Wetlands and Watercourses Act on the plaintiffs' property**

1. Plaintiffs Timothy J. Curt and Dona M. Bissonnette jointly own the property known as 1218 Smith Ridge Road, New Canaan, Connecticut, where they have resided since 2003.
2. Since 2003, plaintiffs Curt and Bissonnette have made extensive improvements to their landscape, pool, tea house, patios, gardens and stream, investing more than \$500,000 in improving those exterior features of their property.
3. 1208 Smith Ridge Road LLC is a limited liability company organized and existing under the laws of Delaware with a business address of 1218 Smith Ridge Road, New Canaan, Connecticut.
4. Plaintiff Bissonnette is the manager of 1208 Smith Ridge Road LLC, which owns the

property known as 1208 Smith Ridge Road, New Canaan, Connecticut.

5. The property known as 1208 Smith Ridge Road, New Canaan, Connecticut, is adjacent to property known as 1218 Smith Ridge Road, New Canaan, Connecticut. (Together, those two properties are referred to herein as “Plaintiffs’ Property”).
6. Plaintiffs’ Property contains wetlands, a stream and a pond.
7. Defendant Grace Property Holdings, LLC, is a limited liability company organized and existing under the laws of Connecticut with a business address of 365 Luke’s Wood Road, New Canaan, Connecticut.
8. Defendant Grace Farms Foundation, Inc. is a corporation organized and existing under the laws of the State of Delaware with a business address of 365 Luke’s Wood Road, New Canaan, Connecticut.
9. From approximately August, 2008 until approximately September 29, 2014 Defendant Grace Property Holdings, LLC owned the property known as 365 Luke’s Wood Road, New Canaan, Connecticut (the “Grace Site”). On or about September 29, 2014 Defendant Grace Property Holdings, LLC transferred title of the Grace Site to Defendant Grace Farms Foundation, Inc.
10. The Grace Site is adjacent to Plaintiffs’ Property.
11. Defendant Grace Farms Foundation, Inc. is developing, managing and operating a public facility containing, among other things, performance and rehearsal spaces, a seminar hall, meeting rooms, offices, a library, an arts studio, a media lab, a game room,

a gymnasium, sports fields, locker rooms, living quarters, a full service café, a tea pavilion, parking areas and driveways at the Grace Site.

12. Defendant Sharon Prince is the President of defendant Grace Farms Foundation, Inc.
13. Defendant Prince has undertaken, at a minimum, supervisory responsibilities with respect to defendant Grace Farms Foundation, Inc.'s construction activities as well as its inadequate stormwater and erosion control measures and its unsuccessful attempts to prevent the repeated sedimentation and siltation of and increased turbidity on the wetlands, stream and pond on Plaintiffs' Property, as alleged below.
14. On September 12, 2013, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
15. In correspondence to Plaintiffs Curt and Bissonnette dated September 18, 2013, defendant Prince promised measures "to ensure that this [run-off incident] will never occur again" and that she and the other defendants she supervises "will do our utmost to go above and beyond to make amends."
16. In that same correspondence, defendant Prince stated: "I am stepping into a construction meeting in a few minutes to review the root cause and current physical/construction remedies of this issue [i.e., the run-off incident of September 12, 2013] as well as to determine additional organizational and supervision measures moving forward."
17. On September 21, 2013, the defendants caused sediment, silt and turbid water to enter

- into the wetlands, stream and pond on the Plaintiffs' Property.
18. On November 26 and 27, 2013, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  19. On January 11, 2014, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  20. On January 11, 2014, the defendants' engineer acknowledged in an email to plaintiff Curt that his team had discovered "an old abandoned drainage pipe that discharges in the woods downslope of . . . all of [defendants'] S&E [sediment and erosion] controls," which was the source of the turbid flow coming from this area.
  21. On July 3, 2014, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  22. On July 14, 2014, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  23. On October 16, 2014, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  24. On December 9, 2014, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  25. On April 20, 2015, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
  26. On May 31, 2015, the defendants caused sediment, silt and turbid water to enter into the



wetlands, stream and pond on the Plaintiffs' Property.

27. On November 11, 2015, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
28. On January 10, 2016, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property.
29. On information and belief, the defendants caused sediment, silt and turbid water to enter into the wetlands, stream and pond on the Plaintiffs' Property on additional dates not set forth above.
30. Sediment and silt from the Grace Site carried by stormwater has been deposited in and along the wetlands, stream and pond on the Plaintiffs' Property.
31. On information and belief, sediment and silt from the Grace Site which had been carried by stormwater and deposited in the streambed on the Grace Site has subsequently been resuspended in the stream water during storm events and has been deposited in and along the wetlands, stream and pond on the Plaintiffs' Property.
32. On information and belief, sediment and silt from the Grace Site which had been carried by stormwater and deposited in the streambed on the Grace Site continues to be resuspended in the stream water during storm events and continues to be deposited in and along the wetlands, stream and pond on the Plaintiffs' Property.
33. The deposition of sediment and silt in the wetlands, stream and pond on Plaintiffs' Property constitutes a regulated activity under the state Inland Wetlands and

Watercourses Act (hereinafter, "Act").

34. Altering the water, which flows to and through the Plaintiff's Property by increasing the level of turbidity in the wetlands, stream and pond on Plaintiffs' Property, as the defendants have done, constitutes a regulated activity under the Act.
35. None of the defendants applied for nor did any of them receive a permit from the New Canaan Inland Wetlands Commission to deposit sediment and silt in the wetlands, stream and pond on Plaintiffs' Property.
36. None of the defendants applied for nor did any of them receive a permit from the New Canaan Inland Wetlands Commission to alter the turbidity in the water that flows to and through Plaintiffs' Property.
37. By virtue of the conduct set forth in the preceding paragraphs, the defendants violated Section 22a-42a (c) (1) of the General Statutes, which prohibits any regulated activity within wetlands or watercourses, from being conducted without a permit authorizing such activity.
38. The plaintiffs are personally aggrieved by the defendants' unpermitted sedimentation, siltation and increase in turbidity of, in and around the wetlands and watercourses on Plaintiffs' Property because their property, as well as their use and enjoyment of it, has been adversely affected.

**COUNT II: Defendant Grace Property Holdings, LLC's violation of wetlands and watercourse permit 12-51 issued by the New Canaan Inland Wetlands Commission**

1. Paragraphs 1 through 32, inclusive, of the First Count are incorporated herein by reference as Paragraphs 1 through 32, inclusive, of this the Second Count as if more fully set forth.
33. Defendant Grace Property Holdings, LLC applied to the New Canaan Inland Wetlands Commission for a permit to conduct regulated activities at 365 Luke's Wood Road, New Canaan, Connecticut.
34. On or about February 13, 2013, the New Canaan Inland Wetlands Commission issued a permit, no. 12-51 (the "Permit"), to defendant Grace Property Holdings, LLC to conduct a regulated activity at the Grace Site.
35. The Permit contains numerous conditions, among others:
  - (a) "Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse, either on or off the site, unless so specifically authorized by this license." Standard Condition 10.
  - (b) "The Licensee shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourses." Standard Condition 7.
  - (c) "All activities for the prevention of soil erosion . . . shall be under the direct supervision of a certified engineer, who shall employ the best management practices . . . to control stormwater discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the licensee weekly and after rains and all deficiencies must be remediated within twenty-

four hours of finding them.” Standard Condition 6.

(d) “The Applicant has agreed to hire an independent site monitor whose technical expertise will be acceptable to the Agent. The site monitor shall utilize the ‘Site Monitoring and Field Report’ and provide copies of reports to the Inland Wetlands Agent, South Norwalk Electric and Water Company (SNEW) Watershed Inspector, and Site Engineer on a weekly basis, and continue until such time as, in the judgment of the Agent, all significant earth disturbing activities have been completed. . . .” Special Condition 1.

(e) “Bi-annually (Spring and Fall), the Applicant shall cause all elements of the stormwater management system identified by the Applicant in the two page memo ‘Stormwater Facilities Maintenance Plan’ . . . to be inspected by a technically qualified individual, acceptable to the Agent, to check for compliance with maintenance of the system; and the inspector shall submit a report of such findings and recommendations to Grace Property Holdings LLC with a copy to the Town of New Canaan, Inland Wetlands Agent. To assure proper functioning of the stormwater system, any and all issues identified in the report shall be repaired/corrected within 30 days of notice to Grace Property Holdings LLC.” Special Condition 3.

(f) “The licensee shall immediately inform the Inland Wetlands Agent of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which develop in the course of or are caused by the work.” Standard Condition 9.

36. Beginning in September 2013 or earlier and continuing to the present, Defendant Grace

Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. has/have caused material that was disturbed and/or utilized during the work to be deposited in wetlands and watercourses on and off the Grace site.

37. Beginning in September 2013 or earlier and continuing to the present, Defendant Grace

Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc has/have failed to take all necessary steps to control storm water discharges to prevent erosion and



sedimentation, and to otherwise prevent pollution of wetlands and watercourses.

38. Beginning in September 2013 or earlier and continuing to the present, Defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. has/have failed to employ the best management practices to control stormwater discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses.
39. Beginning in September 2013 or earlier and continuing to the present, defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. has/have failed to remediate deficiencies in its erosion controls within twenty-four hours of finding them.
40. Beginning in September 2013 or earlier and continuing to the present, defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. has/have failed to hire an independent site monitor.
41. Instead, beginning in September 2013 or earlier and continuing to the present, defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. utilized its/their own Site Engineer, Holt McChord, to serve as the “independent site monitor” and to monitor his own work.
42. Beginning in September 2013 or earlier and continuing to the present, defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. has/have failed to hire an inspector to inspect all elements of the stormwater management system

identified in the “Stormwater Facilities Maintenance Plan.”

43. Instead, on information and belief, beginning in September 2013 or earlier and continuing to the present defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. utilized its/their own Site Engineer, Holt McChord, to serve as the “inspector” and to inspect his own work.
44. On information and belief, beginning in September 2013 or earlier, defendant Grace Property Holdings, LLC and/or Defendant Grace Farms Foundation, Inc. has/have failed to immediately inform the Inland Wetlands Agent of problems involving sedimentation, erosion, downstream siltation or unexpected adverse impacts, which developed in the course of or were caused by the work.
45. By virtue of the conduct set forth in paragraphs 36-44 of this count, the defendants have conducted a regulated activity within the meaning of the Act not in accordance within the conditions of permit 12-51, in violation of the Act.
46. The plaintiffs are personally aggrieved because their property, as well as their use and enjoyment of it, has been adversely affected by the following acts of the defendants:
- (a) Grace Property Holdings, LLC’s and/or Grace Farms Foundation, Inc.’s causing of material that was disturbed and/or utilized during the work to be deposited in wetlands and watercourses on and off the Grace Site,
  - (b) Grace Property Holdings, LLC’s and/or Defendant Grace Farms Foundation, Inc.’s failure to employ the best management practices and take all necessary steps

to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourses,

(c) failure to remediate deficiencies in its erosion controls within twenty-four hours of finding them,

(d) failure to hire and utilize an “independent site monitor” and an “inspector,” and

(e) failure to immediately inform the Inland Wetlands Agent of problems involving sedimentation, erosion, downstream siltation or unexpected adverse impacts, which developed in the course of or were caused by the work.

### **COUNT III: Violation of the CT Environmental Protection Act**

1. Paragraphs 1 through 32, inclusive, of the First Count are incorporated herein by reference as Paragraphs 1 through 32, inclusive, of this Third Count as if more fully set forth.

33. The plaintiffs are authorized to maintain an action in the superior court for the protection of the public trust in air, water, and other natural resources of the state from unreasonable pollution, impairment or destruction as set forth in Section 22a-16 of the General Statutes.

34. By causing the release of sediment, silt and turbid water to the wetlands, stream and

pond on Plaintiffs' Property, the defendants unreasonably polluted or impaired the wetlands, stream and pond on Plaintiffs' Property, which wetlands and watercourses are natural resources of the State of Connecticut, and the public trust therein.

**COUNT IV: Trespass**

1. Paragraphs 1 through 32, inclusive, of the First Count are incorporated herein by reference as Paragraphs 1 through 32, inclusive, of this Fourth Count as if more fully set forth.
33. At all times mentioned in this action, plaintiffs Curt and Bissonnette have owned and currently own the property known as 1218 Smith Ridge Road, New Canaan, Connecticut.
34. At all times mentioned in this action, plaintiffs Curt and Bissonnette have been and are currently in possession of the property known as 1218 Smith Ridge Road, New Canaan, Connecticut.
35. At all times mentioned in this action, plaintiff 1208 Smith Ridge Road, LLC has owned and currently owns the property known as 1208 Smith Ridge Road, New Canaan, Connecticut.
36. At all times mentioned in this action plaintiff 1208 Smith Ridge Road, LLC has been and is currently in possession of the property known as 1208 Smith Ridge Road, New Canaan, Connecticut.



37. Beginning in September 2013 or earlier, on at least twelve occasions the defendants, without permission of the plaintiffs, caused sediment, silt and turbid water to enter onto Plaintiffs' Property and into the wetlands, stream, and pond on Plaintiffs' Property, during and after rain events.
38. The defendants intended the construction and other activities, including but not limited to the disturbance of earth on their property and the importation of soil onto their site for use in construction, that gave rise to the sedimentation, siltation and turbid stormwater run-off on the site and had good reason to know or expect that conditions would cause the substances to migrate from the Grace Site to the Plaintiffs' Property.
39. The entry of sediment, silt and turbid water onto the land and into the wetlands, stream and pond on the Property directly affects and injures Plaintiffs' Property, the value of that property and the plaintiffs' exclusive possessory interest in that property by, among other things, rendering those wetlands, watercourses and adjoining land visually and aesthetically unappealing and unusable at times, compromising their ecological functioning, and rendering the water in the pond unusable for landscape irrigation purposes.

#### **COUNT V: Private Nuisance**

1. Paragraphs 1 through 32, inclusive, of the First Count are incorporated herein by reference as Paragraphs 1 through 32, inclusive, of this Fourth Count as if more fully set

forth.

33. Beginning in September 2013 or earlier, on at least twelve occasions the defendants, caused sediment, silt and turbid water to enter onto Plaintiffs' Property and into the wetlands, stream, and pond on Plaintiffs' Property, during and after rain events.
34. The sediment, silt and turbid water that defendants caused and allowed to enter onto Plaintiffs' Property unreasonably interferes with the plaintiffs' use and enjoyment of their property.
35. The defendants intended the construction activity, including the disturbance of earth on their property and the importation of soil onto their site for use in construction, that caused and allowed the sedimentation, siltation and turbid water to enter Plaintiffs' Property.
36. The sedimentation, siltation and turbid water run-off caused and allowed by the defendants unreasonably interferes with Plaintiffs' use and enjoyment of Plaintiffs' Property, because, among other things, it renders the wetlands, stream pond and adjoining land visually and aesthetically unappealing and unusable at times, compromises their ecological functioning, and has rendered the water in the pond unusable for landscape irrigation purposes.

WHEREFORE, pursuant to Sections 22a-16, 22a-18, 22a-44 of the General Statutes, the Plaintiffs pray for relief and respectfully request that the Court:

1. Declare that the defendants, jointly and severally, have violated the public trust in the natural resources of the State of Connecticut by unreasonably polluting or impairing the wetlands and watercourses on the Plaintiffs' Property; and
2. Order the defendants, jointly and severally, to restore the watercourse on the Property of Defendant Grace Property Holdings, LLC; and
3. Order the defendants, jointly and severally, to restore the wetlands and watercourses on the Plaintiffs' Property; and
4. Enjoin the defendants, jointly and severally, from authorizing or undertaking any releases upon the Plaintiffs' Property in the future in violation of the Connecticut Environmental Protection Act; and
5. Enjoin the defendants, jointly and severally, from authorizing or undertaking any releases upon the Plaintiffs' Property in the future not in accordance with the Inland Wetlands and Watercourses Act; and
6. Assess civil penalties against the defendants, jointly and severally, pursuant to § 22a-44 (b), of not more than one thousand dollars for each violation, and in the case of the violation continuing from the day of deposit to the day of removal of the unpermitted material, each day's continuance being deemed a separate and distinct offense, an

- amount of not more than one thousand dollars per day for each day; and
7. Assess the plaintiffs their costs, fees, expenses, reasonable costs for witnesses, and a reasonable attorney's fee as damages against the defendants, jointly and severally;
  8. Award the plaintiffs their damages;
  9. Order the defendants to abate the private nuisance; and
  10. Such other relief as the Court may deem just and equitable.

RESPECTFULLY SUBMITTED,

PLAINTIFFS,

By Janet P. Brooks  
Janet P. Brooks  
JANET P. BROOKS ATTORNEY AT LAW, LLC  
1224 Mill Street, Building B, Suite 212  
East Berlin, Connecticut 06023  
Juris Number: 301583  
Tel. (860) 828-2092  
Fax (860) 256-8214  
e-mail: [jb@attorneyjanetbrooks.com](mailto:jb@attorneyjanetbrooks.com)  
Their Attorney